

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL NO. 1456
LITIGATION) Civil Action No. 01-12257-PBS
)
)
THIS DOCUMENT RELATES TO THE)
MASTER CONSOLIDATED CLASS ACTION)

**NON-PARTY TUFTS ASSOCIATED HEALTH PLANS, INC.'S
MOTION FOR LEAVE TO FILE SUPPLEMENTAL AFFIDAVITS
IN SUPPORT OF ITS MOTION FOR PROTECTIVE ORDER**

Pursuant to Local Rule 7.1(B)(3), non-party Tufts Associated Health Plans, Inc. ("Tufts Health Plan"), an absent member of the plaintiff class, requests leave to file the attached Affidavit of James Roosevelt, Jr. and the Supplemental Affidavit of Miriam Sullivan in support of its Motion For Protective Order, scheduled to be heard February 2, 2006. In support of its request, Tufts Health Plan states the following:

a. Mr. Roosevelt's Affidavit addresses the harm that would result from disclosure of highly competitively sensitive information called for by the Dey, Inc. subpoena, particularly in light of the fact, pursuant to Judge Saris's Consolidated Order of January

30, 2006, Blue Cross Blue Shield of Massachusetts, Tufts Health Plan's largest competitor, is now a party to this case and a representative of the third party payor class.

b. Ms. Sullivan's Supplemental Affidavit details the significant time, expense, and other costs involved in responding to the "narrowed" discovery sought by Dey, Inc., and the fact that Dey, Inc.'s "narrowed" discovery does not appear to be limited to physician administered drugs, or even to the Subject Drugs identified by the Court in its Consolidated Order of January 30, 2006.

The information provided in attached Affidavits will thus assist the Court in assessing the need for the discovery sought by Dey, Inc., and the burden that defendant's "narrowed" discovery requests would impose.

Respectfully submitted,

TUFTS ASSOCIATED HEALTH PLANS,
INC.

By its attorney,

/s/ Anne L. Josephson
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Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for Dey, Inc. with a copy to David Nalven, Liaison and Co-Lead Counsel for plaintiffs, via email on February 1, 2006.

/s/ Anne L. Josephson
Anne L. Josephson